

§ 302.401

for the issuance of exemptions by regulation are subject to the provisions governing rulemaking.

§ 302.401 Filing of application.

(a) Except as provided in paragraphs (b) and (c) of this section, applications for exemption shall conform to the requirements of §§ 302.3 and 302.4.

(b) Applications for exemption from section 401 or 402 of the Act (and section 403 of the Act if accompanying the former) which involve 10 or fewer flights may be submitted to the Licensing Division, Office of Aviation Operations on CAB Form 302 or the DOT replacement form. However, that form may not be used for:

(1) Applications filed under section 416(b)(7) of the Act;

(2) Applications by persons who do not have either:

(i) An effective air carrier certificate or foreign air carrier permit from DOT, or

(ii) A properly completed application for such a certificate or permit, and an effective exemption from the DOT for operations similar to those proposed;

(3) Successive applications for the same or similar authority that would total more than 10 flights; or

(4) Any other application for which the DOT decides the requirements of §§ 302.3 and 302.4 are more appropriate. Upon a showing of good cause, an application may be filed by cablegram, telegram, or telephone. All telephone requests must be confirmed by written application within three business days of the original request.

(c) Applications for exemption from section 403 of the Act, tariffs (except for waivers filed under subpart Q of part 221 of this chapter), or DOT regulations concerning tariffs may be submitted by letter. Three copies of such applications shall be sent to the Documentary Services Division, Office of the General Counsel. Upon a showing of good cause, the application may also be filed by cablegram, telegram, or telephone. All telephone requests must be confirmed by written application within three business days of the original request.

(d) Applications filed under paragraph (a) of this section shall be docketed and any additional documents

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filed shall be identified by the assigned docket number.

(e) Applications filed under paragraph (b) or (c) of this section will normally not be docketed. The DOT may require such applications to be docketed if appropriate. The DOT will list the names and addresses of all persons filing such applications, and will briefly describe the authority sought, in its weekly list of applications filed.

§ 302.402 Contents of application.

(a) *Title.* An application filed under § 302.401(a) shall be entitled "Application for Exemption," and shall state if the application involves renewal and/or amendment of existing exemption authority.

(b) *Factual statement.* Each application shall state:

(1) The section(s) of the Act or the rule, regulation, term, condition, or limitation from which exemption is requested;

(2) The proposed effective date and duration of the exemption;

(3) A description of how the applicant proposes to exercise the authority (for example, applications for exemption from section 401 or 402 of the Act should include at least: places to be served; equipment types, capacity and source; type and frequency or service; and other operations which the proposed service will connect with or supplant); and

(4) Any other facts the applicant relies upon to establish that the proposed service will be consistent with the public interest.

(c) *Supporting evidence.* (1) Each application shall be accompanied by:

(i) A statement of economic data, or other matters or information that the applicant desires the DOT to officially notice;

(ii) Affidavits, or statements under penalty of perjury, establishing any other facts the applicant wants the Board to rely upon; and

(iii) Information showing the applicant is qualified to perform the proposed services.

(2) In addition to the information required by paragraph (c)(1) of this section, an application for exemption from section 401 or 402 of the Act (except exemptions under section